

24 February 1976

MEMORANDUM FOR: Chief, Clearance Division

SUBJECT : Proposed Revision of Executive
Order 10450

1. Reference is made to the attached proposal for a new Executive Order to replace Executive Order 10450. Comments are set forth below:

GENERAL: A general reading of the new Executive Order supports the feeling that a "watering down" of the Executive Order has occurred. The old order referred to "Security Requirements for Government Employees," while the new one refers to "Suitability Requirements for Government Employees." It is felt that the change of terms is, in itself, a watering down of the Order. Suitability and Security, in our terms of reference, are not interchangeable. Therefore, it is believed that anywhere in the Order where the word "suitability" is used, that this should be changed back to "security."

SPECIFIC: Page 2, Section 3 - COMMENT: We need a definition of the duties and makeup of the "Domestic Council."

COMMENT: This paragraph contains the word "suitability" a number of times. Probably should be changed.

Page 2, Section 4 - "The appointment or retention of each civilian officer or employee in any department or agency is contingent upon meeting the 'suitability' standards promulgated by the Civil Service Commission." COMMENT: What are these standards? This paragraph goes on to state that

the standards which must be applied are whether or not such appointment or retention will "promote the efficiency of the service," and whether "a person is trustworthy and therefore capable of discharging responsibilities of the position in a manner which will assure that appointment or retention would be clearly consistent with the national interest." COMMENT: The idea that an individual's appointment or retention can be based partially or wholly on promoting the efficiency of the service is believed to represent a dangerous precedent. Based on this idea, an individual might well have serious security factors in his background which could be overridden because his use would be "efficient" for the service. The second sentence should be rephrased.

Page 3, Section 5(a) - In talking of "Positions of Special Trust," the draft reads that: "Such designation will be made only by the heads of departments, agencies or major organizational components created by statute, or as delegated to a limited number of designees." COMMENT: "designees" should be defined. The draft goes on: "The procedures and criteria for establishing Positions of Special Trust, to include designating levels of sensitivity within the major categories as detailed in Civil Service Commission guidance....." COMMENT: This is unclear.

Page 4, Subsection (b) - The draft reads: "The heads of organizations referred to in subsection (a) of this section, with respect to Positions of Special Trust: shall etc..... (Para's (1) through (4). COMMENT: It is presumed that in the case of the Agency, this gives the DCI the power to declare all of our positions as "Positions of Special Trust." However, it would also appear that some positions may be more or less sensitive than others.

Page 4, Section 6(a) - The draft states: "The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to an investigation conducted for the purpose of developing information relevant to determining whether such appointment is consistent with the

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applicable standards specified in Section 4 of this order." COMMENT: The "applicable" standards in Section 4 are inadequate.

Page 4, Section 6(b) - "The scope of the investigations shall be prescribed by the Civil Service Commission....." COMMENT: It is not believed that the Office of Security and the Agency can live with this. At the least, it should indicate that the "minimum" standards of the investigation may be prescribed by CSC, with each Agency allowed to expand as they see fit.

Page 5, Subsection (d) - "In case of an emergency, a Position of Special Trust may be filled for a limited period by a person with respect to whom a personal investigation has not been completed if the head of the department or agency personally finds that such action is necessary in the interest of the national security or welfare." COMMENT: We would find it extremely difficult to accept the certification of an individual from another agency who had been cleared only on the basis of direction of the head of that agency.

Page 7, Section 7, (b) (1) - COMMENT: These paragraphs set forth standards which may be applied in adjudicating an individual for a "Position of Special Trust." They are somewhat akin to Section 8, of the original Executive Order 10450, but are not as comprehensive, and should be expanded. As an example, the original Executive Order 10450 stated that one of the items to be considered was "Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion." This version does not address these items. ADDITIONAL COMMENT: This section mentions that adverse determinations must be based on all available information and lists a number of factors, including (6) "Contributing social or environmental conditions." This latter is believed to be a sociological judgement which is not proper in an Executive Order delineating standards for government employees.

Page 8 and 9, Section 8 - COMMENT: This section sets forth procedures to be followed in the case of denials.

It is not believed that the Office of Security or the Agency could live with this.

Page 9, Section 10 - COMMENT: This section indicates that individuals may not be removed from a position in the Federal Service unless CSC removal procedures have been followed. It is believed that this should also include removal procedures for different agencies, particularly since this Agency has removal procedures under Section 102C of the National Security Act of 1947.

Page 10, Section 13 - COMMENT: This section indicates that a central index of all individuals investigated shall be established and maintained by CSC. It is believed that this Agency should be granted an exception for this matter since, particularly in the cases of sensitive OD&E and DDO cases, we would not want to surface the fact that these individuals were investigated.

Page 11, Section 14 - COMMENT: This section indicates that, at a minimum, a reinvestigation of an individual may involve only a review of his updated PHS. Particularly in the case of non-USIB agency certifications, this Office could not live with this. Additionally, this clause does not agree with the DCID 1/14 standards.

Page 13, Section 18 - COMMENT: This paragraph calls for an annual report regarding waivers granted and persons denied appointment or removed from appointment. It is again felt that this Agency should be excepted from this clause.

2. In conclusion, it is the opinion of the writer that this draft is badly written and thought out and is completely unresponsive to the needs of this Agency, as well as NSA and, probably, other sensitive agencies of the Government.

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Chief,
Industrial & Certification Branch

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